

111TH CONGRESS  
1ST SESSION

# H. R. 561

To amend the Internal Revenue Code of 1986 to allow a 5-year carryback of certain net operating losses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2009

Ms. MARKEY of Colorado (for herself, Ms. BEAN, and Mr. HODES) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a 5-year carryback of certain net operating losses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CARRYBACK OF CERTAIN NET OPERATING**  
4 **LOSSES ALLOWED FOR 5 YEARS; TEMPORARY**  
5 **SUSPENSION OF 90 PERCENT AMT LIMIT.**

6 (a) FIVE-YEAR CARRYBACK OF NET OPERATING  
7 LOSSES.—Subparagraph (H) of section 172(b)(1) of the  
8 Internal Revenue Code of 1986 is amended to read as fol-  
9 lows:

1           “(H) TEMPORARY 5-YEAR CARRYBACK OF  
 2           LOSSES.—In the case of a net operating loss for  
 3           any taxable year ending during 2001, 2002,  
 4           2008, or 2009, subparagraph (A)(i) shall be ap-  
 5           plied by substituting ‘5’ for ‘2’ and subpara-  
 6           graph (F) shall not apply.”.

7           (b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT  
 8           ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

9           (1) IN GENERAL.—Subsection (d) of section 56  
 10          of such Code is amended by adding at the end the  
 11          following new paragraph:

12           “(3) ADDITIONAL ADJUSTMENTS.—For pur-  
 13          poses of paragraph (1)(A), the amount described in  
 14          clause (I) of paragraph (1)(A)(ii) shall be increased  
 15          by the amount of the net operating loss deduction  
 16          allowable for the taxable year under section 172 at-  
 17          tributable to the sum of—

18           “(A) carrybacks of net operating losses  
 19          from taxable years ending during 2008 and  
 20          2009, and

21           “(B) carryovers of net operating losses to  
 22          taxable years ending during 2008 or 2009.”.

23           (2) CONFORMING AMENDMENT.—Subclause (I)  
 24          of section 56(d)(1)(A)(i) of such Code is amended by

1 inserting “amount of such” before “deduction de-  
2 scribed in clause (ii)(I)”.

3 (c) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—

5 (A) IN GENERAL.—Except as provided in  
6 subparagraph (B), the amendments made by  
7 subsection (a) shall apply to net operating  
8 losses arising in taxable years ending in 2008  
9 or 2009.

10 (B) ELECTION.—In the case of an tax-  
11 payer with a net operating loss for a taxable  
12 year ending during 2008—

13 (i) any election made under section  
14 172(b)(3) of the Internal Revenue Code of  
15 1986 may (notwithstanding such section)  
16 be revoked before November 1, 2009, and

17 (ii) any election made under section  
18 172(j) of such Code shall (notwithstanding  
19 such section) be treated as timely made if  
20 made before November 1, 2009.

21 (2) SUBSECTION (b).—The amendments made  
22 by subsection (b) shall apply to taxable years ending  
23 after December 31, 1997.

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